IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 3683 of 2001

For Approval and Signature:

HONOURABLE MR.JUSTICE ANIL R. DAVE
HONOURABLE MR.JUSTICE H.B.ANTANI

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

UNITED INDIA INSURANCE CO. LTD & 2 - Appellant(s)
Versus
TEJALBEN JAIPRAKASHBHAI PATEL & 3 OTHERS - Defendant(s)

==========

Appearance :
MR PV NANAVATI for Appellant(s) : 1 - 3.MR VIBHUTI NANAVATI for Appellant(s) : 1 - 3.
RULE SERVED BY DS for Defendant(s) : 1 - 2
MR HM BHAGAT for Defendant(s) : 3,
MS MEGHA JANI for Defendant(s) : 4

==========

CORAM : HONOURABLE MR.JUSTICE ANIL R. DAVE

and

HONOURABLE MR.JUSTICE H.B.ANTANI

Date : 12/07/2007

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE ANIL R. DAVE)

Being aggrieved by the judgment and decree passed in Motor Accidents Claims Petition No. 1695/92 dated 31.1.2000 by the Motor Accidents Claims Tribunal (Aux.), Ahmadabad (Rural) at Mirzapur, the aforesaid appeal has been filed.

2. The circumstances in which the aforesaid Motor Accidents Claims Petition had arisen, in a nutshell, are as under:

2.1 Respondent No. 1-claimant was traveling in a matador bearing Regn. No. GQE-4796 on 9.6.1992. Around 4.30 a.m. the said matador collided with a truck bearing Regn. No. NS-09-A-6732 near the temple of Lord Shiv, near Gota. Because of the said accident, the matador in which she was travelling turned turtle. The respondent claimant suffered severe injuries and, therefore, she had to be admitted to hospital and in the hospital she was kept as an indoor patient for 3 days. The respondent claimant had suffered several injuries. Exh. 175 shows that both the clavicles had been fractured. Because of the aforesaid injuries, the respondent claimant, who was holding a diploma in electrical engineering with first class, had become disabled to the extent of 20% as submitted in the claim petition filed by her. She was doing consultation work and was also managing business of submersible pumps in the name and style of Vishwa Engineers and due to the

injuries suffered on account of the accident, she could not manage her business properly. In the aforesaid circumstances, she could not take up new contracts and thereby her earning capacity had been adversely affected. According to the claim petition, the claimant could have earned Rs. 25,000/- per month when she could not work and according to her, she had suffered economic loss to the tune of Rs. 36,000/- per year. As the claimant was around 21 years of age, she had claimed that by awarding multiplier of 17, the future economic loss caused to her should be compensated. She had also claimed Rs. 20,000/- under the head of medical expenses. Ultimately, considering the evidence adduced before the Tribunal, the Tribunal had awarded, in all, Rs. 90,100/- alongwith interest @ 12% from the date of the application till realisation of the amount awarded.

3. Learned advocate Shri Nanavati appearing for the owners of the vehicle has fairly submitted that so far as the finding with regard to negligence of the drivers is concerned, he has not to make any submission, but he has challenged validity of the judgment only so far as quantum of compensation awarded by the Tribunal to the claimant is concerned.

4. In the aforesaid circumstances, the facts giving rise to the accident and the details with regard to the negligence of the drivers have not been discussed at all in this judgment, and as the arguments were confined only to the quantum of compensation awarded by the Tribunal, the relevant details with regard to the aspect of compensation only have been discussed.

5. Learned advocate Shri Nanavati appearing for the appellant has submitted that the amount awarded is much higher than the amount which the respondent-claimant was entitled. It has been submitted by him that looking to the age of the respondent claimant, the Tribunal has materially erred by applying multiplier of 16. It has been submitted that looking to the age of the claimant, multiplier should not have exceeded 14. It has been further submitted by him that even the amount of Rs. 7500/- awarded towards medical treatment is excessive. It has been also submitted that the Tribunal should not have awarded Rs. 10,000/-towards actual economic loss by believing that the respondent claimant could not work for about 4 months.

6. Though served, respondents Nos. 1 & 2 have not chosen to appear personally or through their advocate/s in the matter.

7. We have heard the learned advocates and have also perused the relevant record, including the evidence before the Tribunal.

8. Upon perusal of the evidence, it cannot be disputed that the respondent claimant had suffered fractures. Even the learned advocate appearing for the appellant could not dispute that the injuries referred to in the judgment had been suffered by the respondent claimant. Looking to the injuries suffered by the claimant, in our opinion, it cannot be said that the respondent claimant would have

suffered for some time and possibly for about 4 months she could not have performed her professional work and, therefore, we do not find any error in the order when the Tribunal awarded Rs. 10,000/- under the head 'actual economic loss', and for special diet and transportation, etc. the Tribunal has awarded Rs. 2,500/-. In our opinion, looking to the cost of transportation, etc. the claimant must have incurred expenditure for transportation as well as towards special diet to the tune of Rs. 2,500/-.

9. So far as application of multiplier is concerned, we do believe that multiplier of 16 adopted by the Tribunal is on a little higher side, but as the amount awarded is not substantial and as future income considered by the Tribunal is little less, we do not think it necessary to interfere with the impugned order by making a negligible change in the amount awarded. Thus, looking to the meagerness of the quantum involved in the appeal, we do not think it proper to allow the appeal.

The appeal is, therefore, dismissed with no order as to costs.

(Anil R. Dave, J.)

(H.B. Antani, J.)

(hn)